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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,247	08/28/2003	Howard Marks	0114855-004	7191

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EXAMINER

THOMASSON, MEAGAN J

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/650,247	MARKS ET AL.	
	Examiner	Art Unit	
	Meagan Thomasson	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14-23 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14-23,25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/8/04, 3/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-9, 12, 14-20, 23, 25-28, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrie (US 5,980,384).

Regarding claims 1, 12, and 23, Barrie discloses a slot machine gaming device featuring a plurality of symbols including a replicator symbol of at least two of the same symbols at a single reel position in column 4, stated as "In the secondary game positions 126a-120i are displayed the same traditional game symbols", lines 48-50 and, "After each play of the primary game the game symbol appearing in each of the secondary game positions ... will automatically change to match the game symbol that appear in the adjacent one of primary game positions" lines 53-58. These secondary game symbols appear in the same horizontally aligned reel position as the primary game symbols, as described in column 4 lines 45-48, and therefore appear in the same symbol position as the primary game symbols.

Further, column 4 lines 13-28 disclose a primary game comprising a winning combination of primary symbols wherein said winning combination is associated with a first outcome to be provided to a player.

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Further, column 6 lines 17-23 disclose a secondary game comprising an additional winning combination of symbols including at least one replicator symbol and at least one of the first symbols.

The gaming device disclosed by Barrie includes a processor, stated as "In the embodiment of FIG. 5 the computer 511 includes a central processing unit" in column 13 lines 58-59.

Regarding claims 3-6, 14-17, 25, and 26, it is well known in the art that a slot machine embodiment comprises at least one payline associated with reels, symbols positions designated along the paylines, and the winning symbol combination occurring at a plurality of the designated symbol positions on the paylines. Barrie et al. discloses a "depicted slot machine, which is the primary game embodiment of the present invention" in column 3 lines 58-59, and further describes multiple paylines in column 4 line 16.

Regarding claim 7, 18, and 27, column 4 lines 32-35 disclose the method by which symbol positions are designated as "The game symbol appearing in each of primary game display positions 120a through 120i on playing field 113 is random and has the potential to change in each play of the primary game." This teaches the designated symbol positions as well as the winning symbol combinations as being chosen at random.

Regarding claims 8, 9, 19, 20 and 28, Barrie discloses a bonus symbol providing a bonus outcome described as "a special Flip-Flop symbol 132, shown in primary game positions 120a-120i upon each play of the primary game, and may cause the

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transposition of adjacent secondary game symbols" in column 4, lines 35-40, wherein said Flip-Flop bonus symbol furthers secondary game play.

Regarding claims 31 and 32, Barrie discloses the method of claim 23 wherein the steps (a) to (c) are provided to the player through a data network that may include the internet as "When game software remains on central computer 528 it permits games to be played over a local network, or over a remote network which may include the internet" in column 14, lines 19-21.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11, 21, 22, 29 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Barrie (US 5,980,384) further in view of Kaminkow (US 6,905,406 B2).

Barrie discloses a slot machine gaming device featuring a bonus symbol providing a bonus outcome described as "a special Flip-Flop symbol 132, shown in primary game positions 120a-120i upon each play of the primary game, and may cause the transposition of adjacent secondary game symbols" in column 4, lines 35-40, wherein said Flip-Flop bonus symbol facilitates secondary game play. However, Barrie

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does not disclose a bonus outcome including a modifier, wherein said modifier includes a multiplier.

Kaminkow discloses a slot machine gaming device having resultant wild symbols. These resultant wild symbols facilitate a bonus outcome including a multiplier described as "the resultant wild symbol may be associated with one or more awards including but not limited to multipliers, free games and free spins" in column 7, lines 16-19.

It is obvious to combine the teachings of Barrie and Kaminkow due to their similar subject matter, namely slot machine gaming devices featuring secondary game symbols appear in the same horizontally aligned reel position as the primary game symbols, and therefore in the same symbol position as the primary game symbols, for the purpose of increasing the player's opportunity to obtain a winning combination of symbols and thereby a better opportunity to obtain an award in the game.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes:

- Bennett (US 6,190,254 B1). Bennett discloses a slot machine gaming device featuring special indicator symbols for use in determining additional winning combinations.
- Glavich et al. (US 6,866,583 B2). Glavich et al. discloses a slot machine gaming device featuring special indicator symbols that appear in the same

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symbol position as primary indicator symbols for use in determining additional winning combinations.

- Takemoto (US 5,890,962). Takemoto discloses a gaming device featuring a plurality of indicator symbols for use in determining multiple winning combinations.
- Inoue (US 5,395,111). Inoue discloses a slot machine gaming device featuring a plurality of indicator symbols.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JOHN M. HOTELLING, II
PRIMARY EXAMINER